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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,687	12/05/2003	Gary L. Hopkins SR.	ST288/00ST8-U	4572

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EXAMINER

LEUNG, PHILIP H

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/729,687

Applicant(s)

HOPKINS, GARY L.

Examiner

Philip H Leung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

### DETAILED ACTION

1. The drawings filed 12-5-2003 are acceptable.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Fisher et al (US 4,933,526).

Fisher shows a microwave cooking tray (10) comprising a base (11) having at least two compartments (cavities 12, 13, 14, 15), each compartment having a bottom surface defining a pattern, the bottom surface of one of said compartments defining a first pattern and a bottom surface of a second of said compartments defining a second pattern, wherein said first and second patterns are distinct and each designed for optimal cooking of a particular type of food product (It is pointed out that the term "optimal" is highly relative and does not have a standard definition in the art of cooking, it is submitted that Fisher meets the claimed intended function as it teaches to use cavity shape to conform with food type. Fisher states at col. 3, lines 3-13, that the cavities preferably will vary in geometry to simulate the normal variations and distribution encountered in a naturally occurring finished food items); and a covering film 16 secured to said base and sealing each compartment (see Figures 1 and 2 and col. 2, line 65 – col. 3, line 49).

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al (US 4,933,526), in view of Isakson et al (US 4,640,838).

As set forth above Fisher shows every feature as claimed except for a different venting arrangement. It shows the use of holes in the cover 16 for venting steam during cooking (see col. 5, line 49-52). Isakson shows a microwave food package 17 with a vent (14, 16) which is responsive to the predetermined pressure to automatically vent the package (see Figures 1-6 and col. 4, line 52 – col. 5, line 46). It would have been obvious to an ordinary skill in the art to modify Fisher to use a vent which automatically opens upon a predetermined pressure for better heating result, in view of the teaching of Isakson.

6. Claims 1-8 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Fichtner (US 3,302,632), in view of Baker et al (US 3,271,169) or Hopkins (US 6,187,354).

Fichtner shows a microwave cooking tray (10) comprising a base (15) having at least two compartments (18, 19, 20), each compartment having a bottom surface defining a pattern (21, 22, 23, 24 or 26, 27), the bottom surface of one of said compartments defining a first pattern (21, 23 or 26) and a bottom surface of a second of said compartments defining a second pattern (22, 24 or 27), wherein said first and second patterns are distinct and each designed for optimal cooking of a particular type of food product (see Figures 1-4 and col. 2, line 12 – col. 3, line 3).

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Therefore Fichtner shows every feature as claimed except for the explicit showing of a covering secured to the base and sealing each compartment. However, the use of a cover to seal a food tray is a necessary and routine practice in the art of food packages. Anyway, Baker is cited to show a compartmented microwave food tray for frozen food and to be heated in a microwave oven including a base and a covering 44 or 86 (see Figures 2 and 3, col. 4, lines 15-19 and col. 5, lines 20-22. Hopkins also shows a microwave food tray (1) having a compartmented base (12) and a cover (14) for storing and microwave heating food (see Figures 1-10 and col. 2, line 48 – col. 19). It would have been obvious to an ordinary skill in the art to modify Fichtner to use a lid to cover and seal the food for better food quality and to prevent spillage, in view of the teaching of Baker or Hopkins. In regard to claims 2 and 6, the exact patterns would be a matter of engineering expediencies, for instance, Fichtner shows a flat pattern and Hopkins shows a ribbed pattern. It is also pointed out that the two compartments shown in Figure 13 of Hopkins can also be considered as two different patterns as one shows 7 ribs and the other shows only 5. In regard to claims 4 and 8, Hopkins also shows the use of vents 35 for venting the food package during heating.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Pedersen (US 6,627,862) is further cited to show a microwave food package having similar claimed features.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip H Leung whose telephone number is (703) 308-1710.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (703) 305-5766. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Philip H Leung  
Primary Examiner  
Art Unit 3742

P. Leung/pl  
8-23-2004